



PROFESSIONAL SERVICES AGREEMENT

for the

URBAN FOREST STRATEGY PROJECT

THIS AGREEMENT dated the [redacted] day of [redacted], 20[redacted].

BETWEEN:

CITY OF PARKSVILLE
PO BOX 1390
100 JENSEN AVENUE EAST
PARKSVILLE, BC V9P 2H3
(The "City")

AND:

[redacted signature line]

(the "Consultant")

WHEREAS:

- A. The City wishes to engage the Consultant for the provision of services described in this Agreement; and
- B. The Consultant has agreed to perform the said services in accordance with the terms and conditions set out in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the terms, covenants, and conditions herein contained, the parties hereto, hereby covenant and agree as follows:

1.0 SERVICES

1.1 Services

The City hereby retains the Consultant to provide the services for the project as described in the Terms of Reference in **Exhibit "A"**, which is attached hereto and incorporated herein, for the fulfilment and completion of this Agreement (the "Services" and the "Project", respectively). **Exhibit "A"** shall include, but is not limited to: a brief project description, objectives, identification of key employees and Subconsultants, project phases (if applicable), and task descriptions.

1.2 Amendment of Services

The City may, from time to time, by written notice to the Consultant, make changes to the Services, and the Consultant shall carry out the Services subject to such changes, within the time limits

agreed to by the parties. The fees and/or schedule shall be increased or decreased by written amendment to this Agreement (an "Amendment"), signed by the City and the Consultant, prior to commencement of any such changes to the Services. All other terms of this Agreement shall apply to any changes of the Services. The City shall not be liable to pay additional compensation to the Consultant for any additional services performed without prior written authorization of such additional services in the form of an Amendment.

1.3 Supplemental and On-Call Services

The Consultant shall, if requested in writing by the City, perform additional, supplemental services, including on-call, as-needed services, at the hourly rates shown in **Exhibit "B"**, which is attached hereto and incorporated herein. The Consultant shall not provide any supplemental or on-call, as-needed services in excess of the scope of Services unless previously authorized in writing by the City. All other terms of this Agreement shall apply to any supplemental or on-call services.

1.4 Standard of Care

The Consultant shall perform the Services: (a) with the degree of care, skill, and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered; (b) in accordance with current professional practices and industry standards; and (c) in conformance with all applicable laws, rules, regulations, ordinances, codes, and orders of governmental bodies, agencies, and courts having jurisdiction applicable at the time the Services are rendered.

2.0 AGREEMENT TERM

2.1 Delivery Schedule

Services shall be completed by the Consultant in accordance with the delivery schedule shown in **Exhibit "C"** (the "Delivery Schedule"), which is attached hereto and incorporated herein. The parties may from time to time, by Amendment, alter the Delivery Schedule. The Consultant acknowledges that time is of the essence with respect to the provision of Services, and accordingly, the Consultant shall provide the Services pursuant to the Delivery Schedule or any applicable Amendment.

2.2 Recovery Schedule

If at any time the Consultant discovers that the Delivery Schedule cannot be met, the Consultant shall immediately advise the City in writing and provide a revised Delivery Schedule for the City's review and approval.

2.3 Authorization to Proceed

Upon receipt of all documentation required by this Agreement to be provided by the Consultant to the City, the City shall issue a purchase order to the Consultant (the "Purchase Order"). Issuance of the Purchase Order authorizes the Consultant to proceed with the Services, and the Consultant shall not proceed with any Services unless they have received a Purchase Order from the City.

2.4 Agreement Term

Unless previously terminated, this Agreement shall expire three months from the date that the City makes final payment to the Consultant for Services rendered, except for provisions in this Agreement that shall survive the termination or completion of this Agreement.

2.5 Supplemental and On-Call Services

The Consultant shall perform any supplemental and on-call services as set out in Section 1.3 in a timely manner or in accordance with agreed-upon completion dates or time periods.

3.0 FEES FOR SERVICES

3.1 Maximum Authorized Expenditure

In consideration of the performance of the Services, the City shall pay the Consultant a maximum total fee, not to exceed **\$80,000**, which amount includes disbursements but excludes applicable federal and provincial taxes, (the "Maximum Authorized Expenditure"), as detailed in **Exhibit "B"** which is attached hereto and incorporated herein. Progress payments shall be based on work completed to date, based on tasks outlined in the Services identified in **Exhibit "A"**.

3.2 Adjustment of Fees

The City may increase or decrease the Maximum Authorized Expenditure by issuing an Amendment to the Agreement. Should the Consultant consider that any request or instruction from the City's Project Representative constitutes a change in the scope of Services, the Consultant shall so advise the City's Project Representative, in writing, within ten (10) days of such request or instruction. Without said written advice within the time period specified, the City shall not be obligated to make any payments of additional fees or disbursements to the Consultant.

3.3 Hourly Rates

Unless noted otherwise in this Agreement, payment for all professional services (labour), including payment for supplemental and on-call, as-needed services, shall be made by the City to the Consultant in accordance with the hourly rates included in **Exhibit "B"**.

3.4 Subconsultants and Disbursements

For this Agreement, all reimbursable expenses are included with the Maximum Authorized Expenditure as set out in **Exhibit "B"**. Unless noted otherwise in **Exhibit "B"**, invoices for Subconsultant services and disbursements shall be paid by the City to the Consultant at actual cost **without mark-up**. The Consultant shall be solely responsible for payment to Subconsultants and vendors of disbursement goods and services, and the City shall not be responsible or liable for any payments to Subconsultants and disbursement vendors.

4.0 APPLICATION FOR PAYMENT

4.1 Invoicing Frequency

The Consultant shall submit invoices to the City on or before the twentieth (20th) day of each month for services performed in the preceding month. If the City approves the amount of such invoices, the City shall pay such invoices within thirty (30) days from the date the invoice is received by the City.

4.2 Invoice Components

As a minimum, each invoice submitted by the Consultant shall include:

- (a) Purchase Order number;
- (b) Brief status report summarizing Services completed during the preceding month;
- (c) Budgeted amount for each task outlined in the Services per Exhibit "A";

- (d) Budgeted amount for each additional task included in approved Amendments, if any;
- (e) Costs incurred for each task outlined in Exhibit "A" in the preceding month;
- (f) Amount earned and invoiced to date for each task, including total amount;
- (g) Amount paid to date for each task, including total amount;
- (h) Percentage of amount of invoice divided by the Maximum Authorized Expenditure;
- (i) Percentage of amount earned to date divided by the Maximum Authorized Expenditure;
- (j) Total amount payable for the current invoice, including Subconsultants, disbursements, and applicable taxes;
- (k) Copies of invoices from Subconsultants; and
- (l) Copies of invoices or receipts for Disbursements.

4.3 Payment in Proportion to Completed Services

The City shall not be obligated to pay the Consultant a greater percentage of the Maximum Authorized Expenditure than the actual percentage complete based on invoice components provided for in Section 4.2.

4.4 City Review of Invoices

The City shall not be responsible for any interest on any amount of the Consultant's invoice where payment is delayed because the City wishes to review, audit, or otherwise seek clarification concerning the Consultant's invoices.

4.5 Withholdings

The Consultant agrees to remit and shall be responsible for all withholding taxes, income taxes, Canada Pension Plan contributions, Employment Insurance deductions, and any other deductions required by applicable federal or provincial statutes for the Consultant, its employees, and Subconsultants.

4.6 Inspection and Audit

The Consultant shall preserve all books, payrolls, accounts, and other records with respect to any time and expenses which the City is or has been required to pay as a result of performance of the Services, including but not limited to, hours worked, details of all disbursements, and percentage of work completed, and shall make the same available for inspection and audit by the City's representatives during the Term of this Agreement and for two years thereafter. The City shall have the right to attend at the Consultant's office and audit the Consultant's files and records in respect of the Project and Services upon forty-eight (48) hours advance written notice, during normal business hours. Any error in a claim for payment or the amount of a payment disclosed on audit shall be adjusted between the parties.

5.0 CONSULTANT'S EMPLOYEES

5.1 Qualified Employees

The Consultant shall provide only professional employees and Subconsultants who have the qualifications, experience, and capabilities to perform the Services.

5.2 Listed Employees and Subconsultants

The Consultant shall perform the Services using only the key employees and Subconsultants listed in **Exhibit "A"**.

5.3 Substitution of Employees or Subconsultants

(a) The Consultant shall not dismiss or substitute any key employee or Subconsultant listed in **Exhibit "A"** without the prior written approval of the City, such approval not to be withheld unreasonably. The City shall not approve removal or substitution of employees or Subconsultants for the reason that the Consultant or its affiliates has called on such individual to perform services for another client of the Consultant.

(b) If, at any time, the City reasonably objects to the performance, experience, qualifications, or suitability of any of the Consultant's employees or Subconsultants, then the Consultant shall, on written request from the City, replace such employee or Subconsultant. The Consultant shall, subject to scheduling and staffing considerations make commercially reasonable efforts to replace the individual with someone of substantially similar competency and experience.

(c) Regardless of whether or not the City consents to, or requests a substitution of any employee or Subconsultant of the Consultant, the City shall not be liable to pay additional compensation to the Consultant for any replacement or substitution.

5.4 Sub-agreements with Subconsultants

The Consultant shall incorporate the terms and conditions of this Agreement into all agreements with Subconsultants in respect of the Services as necessary to preserve all rights of the City under this Agreement. The Consultant shall be fully responsible to the City for all acts and omission of Subconsultants and of persons employed by any Subconsultant or by the Consultant.

5.5 Not an Agent of the City

Nothing in this Agreement shall be interpreted so as to render the City the agent, employer, or partner of the Consultant, or the employer of anyone working for the Consultant, and the Consultant must not do anything that would result in anyone working for the Consultant being considered an employee of the City. The Consultant is not, and must not claim to be, an agent of the City.

5.6 Independent Contractor

The Consultant is an independent contractor. This Agreement does not create the relationship of employer and employee, a partnership, or a joint venture. The City shall not control or direct the details, means, methods, or processes by which the Consultant performs the Services. The Consultant is responsible for performance of the Services and may not delegate or assign any Services to any other person except as provided for herein. The Consultant shall be solely liable for the work quality and conditions of any partners, employees, and Subconsultants.

6.0 INDEMNIFICATION AND INSURANCE

6.1 Indemnity

The Consultant shall indemnify and save harmless the City, its elected officials, appointed officers, employees, agents, and contractors from and against all claims, costs, losses, damages, actions, causes of action, and expenses arising from an error, omission, or negligent or wilful act of the Consultant in the performance of the Services by the Consultant or its employees, agents, or Subconsultants, or from a breach of this Agreement by the Consultant.

6.2 Survival of Indemnity

The indemnity described in Section 6.1 shall survive the termination or completion of this Agreement and, notwithstanding such termination or completion, shall continue in full force and effect for the benefit of the City, its elected officials, appointed officers, employees, agents, and contractors.

6.3 Consultant's Insurance Policies

Without limiting the effect of the foregoing provisions, the Consultant shall, at all times during the continuance of this Agreement, maintain insurance with an insurer(s) satisfactory to the City and licensed to work in British Columbia in accordance with the following terms:

- (a) Comprehensive General Liability insurance in the amount of two million dollars (\$2,000,000) inclusive per occurrence for bodily injury and property damage.
- (b) Automobile Public Liability and Property Damage insurance in the amount of two million dollars (\$2,000,000) per occurrence per owned, non-owned, or hired vehicle.
- (c) Professional Liability Insurance in an amount not less than **one million dollars (\$1,000,000)** in the aggregate for all claims per year.
- (d) Ensure that the Services are carried out in conformity with the *Worker's Compensation Act*, R.S.B.C. 996, c. 492, as regards to employee coverage, benefits, and safety regulations.
- (e) Be responsible for any deductible amounts under the policies.

6.4 Insurance Certificates

Prior to receiving a Purchase Order from the City, the Consultant shall provide Certificate(s) of Insurance to the City which satisfies the City that the insurance required herein has been obtained and is in force. The City shall be named as an Additional Insured on the Consultant's General Liability Policy. The policies shall also contain an endorsement to provide the City with thirty (30) days prior written notice of cancellation or material change in the policies.

6.5 Survival of Insurance Provisions

It is understood and agreed that the covenants contained in Sections 6.1 through 6.4, inclusive, shall survive the expiry or earlier termination of this Agreement, and that those Sections are severable for such purpose.

7.0 CITY BUSINESS LICENCE

Prior to receiving a Purchase Order from the City, the Consultant shall obtain and maintain a valid City of Parksville Business Licence for the duration of the Agreement. Costs associated with the licence are the responsibility of the Consultant.

8.0 WORKSAFE BC COVERAGE

8.1 WorkSafe BC Compliance

The Consultant agrees that it shall procure in British Columbia and carry and pay for, full WorkSafe BC coverage for itself and all workers, employees, servants, and others engaged in or upon any work or Service which is the subject of this Agreement. The Consultant agrees that the City may deduct any unpaid premiums, assessments, or penalties for such WorkSafe BC coverage from any monies owing by the City to the Consultant, where the Consultant fails to make such payments on demand by the City. The City shall have the right to withhold payment under this Agreement until WorkSafe BC premiums, assessments, or penalties in respect of the Services performed in fulfilling this Agreement have been paid in full.

8.2 WorkSafe BC Registration

Prior to receiving a Purchase Order from the City, the Consultant shall provide the City with the Consultant's WorkSafe BC registration number and a letter from WorkSafe BC confirming that the Consultant is registered in good standing with WorkSafe BC, and that all premiums and assessments have been paid to the date thereof.

8.3 WorkSafe BC Indemnity

The Consultant shall indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties, and proceedings arising out of or in any way related to unpaid WorkSafe BC premiums, assessments, or penalties owing from any person or corporation engaged in the performance of Services under this Agreement or arising out of or in any way related to the failure to observe safety rules, regulations, and practices of WorkSafe BC.

9.0 CITY INFORMATION AND RESOURCES

9.1 Available Information

The City shall make available to the Consultant all relevant information, plans, maps, reports, specifications, standards, and data pertinent to the Project which is in the hands of the City and is required by the Consultant to perform the Services. The Consultant shall be entitled to rely upon the accuracy and completeness of such information and data furnished by the City, except where it is stated otherwise or unreasonable to do so.

9.2 City Resources

The City acknowledges that the Consultant's ability to provide the Services in accordance with this Agreement shall be dependent on the City providing available information and resources in a prompt and timely manner as reasonably required by the Consultant. To the extent that the City fails to provide City resources, the Consultant shall not be liable for any resulting delay in the Services or failure to meet the Delivery Schedule, but in no event shall such delay or failure to provide City resources constitute a breach of this Agreement by the City, nor shall the Consultant be entitled to extra compensation for same.

9.3 Obligations of Consultant

No reviews, approvals, or inspections carried out or supplied by the City shall derogate from the duties and obligations of the Consultant, and all responsibility related to performance of the Services shall be and remain with the Consultant.

10.0 OWNERSHIP AND USE OF MATERIALS

10.1 Ownership of the Materials

All reports, designs, sketches, drawings, plans, specifications, calculations, manuals, correspondence, agendas, minutes, notes, audio-visual materials, photographs, models, software data, other documents or products produced by the Consultant under this Agreement (collectively, "the Material") are and shall remain the property of the City even though the Consultant or another party has physical possession of them. The Consultant hereby waives, in favour of the City, any moral rights the Consultant, its employees, or Subconsultants may have in the Material. Until the expiry or earlier termination of this Agreement, the Consultant may retain copies, including reproducible copies, of the Material.

10.2 Delivery and Use of Material

All Material shall be transferred and delivered by the Consultant to the City without further compensation following the expiration or sooner termination of this Agreement, provided that the City may, at any time prior to the expiration or earlier termination of this Agreement, give written notice to the Consultant requesting delivery by the Consultant to the City of all or any part of the Material in which event the Consultant shall forthwith comply with such request. Materials created electronically must be submitted in a format and medium acceptable to the City. The Material may be used by the City in any manner for the intended purpose or as part of its operations associated with the Materials.

10.3 Survival of Ownership and Use Provisions

It is understood and agreed that the covenants contained in Sections 10.1 through 10.2, inclusive, shall survive the expiry or earlier termination of this Agreement, and that those Sections are severable for such purpose.

11.0 CONFIDENTIALITY

11.1 No Disclosure

The Consultant shall keep confidential and shall not disclose, publish, or release any information, data, or secret of the City to any person other than representatives of the City duly designated for that purpose, in writing by the City, and shall not use for the Consultant's own purposes, or for any purpose other than those of the City, any information, data, or secret the Consultant may acquire as a result of the performance of the Services.

11.2 Freedom of Information and Protection of Privacy Act

The Consultant acknowledges that the City is subject to the *Freedom of Information and Protection of Privacy Act* ("FIPPA") and agrees to any disclosure of information by the City as required by law. The Consultant further acknowledges that they may have access to personal information as defined under FIPPA, and the Consultant shall not use any such personal information for any purposes other than for the performance of Services under this Agreement without the advance written approval of the City.

11.3 Advertising

The Consultant shall submit to the City any proposed advertising or publicity by the Consultant, referring to the City, the Project, or performance of the Services, for written approval prior to issue.

12.0 ASSIGNMENT

The Consultant shall not assign this Agreement, in whole or in part, except with the prior written consent of the City, which consent shall not be unreasonably withheld, delayed, or conditioned. Any attempt to assign this Agreement without such consent shall be void and of no effect. However, the Consultant shall be permitted to assign this Agreement to any entity into, by, or with which the business or assets of the Consultant have been merged, acquired, consolidated, or re-organized, or any entity which purchases all or substantially all of the business or assets of the Consultant, provided that the Consultant first provides the City with reasonable particulars of the transaction (permitting the City to independently verify the nature of the transaction), and a legally enforceable covenant from the new entity confirming that it is legally bound to the City to perform the Services of this Agreement.

13.0 TERMINATION OF AGREEMENT

13.1 Termination for Cause or Default

The City reserves the right to immediately cancel all or any part of this Agreement if the Consultant or any Subconsultant defaults or fails to deliver the Services in accordance with the terms and conditions of this Agreement. Such cancellation shall be in writing, may be without notice, and shall not result in any penalty or other charges to the City. Without limitation, the Consultant is in default of its obligations contained in this Agreement if the Consultant, or any Subconsultant:

- (a) Fails to supply sufficient, properly-skilled workers or proper workmanship, products, materials, tools, and equipment to perform the Services;
- (b) Fails to observe or comply with all laws or ordinances, including all requirements of governmental or quasi-governmental authorities, including federal, provincial, and local government enactments, bylaws, and other regulations now or, following the date of this Agreement, in force that pertain to;
- (c) Fails to observe or comply with the City's reasonable instructions;
- (d) Breaches the Conflict of Interest provisions of this Agreement; or
- (e) Otherwise violates any provision of this Agreement.

13.2 Termination for Convenience

The City may, at its option, terminate this Agreement at any time during the Agreement Term, and, if such option is exercised, then this Agreement shall terminate fifteen (15) business days after the date such written notice is received, or deemed received, by the Consultant.

13.3 Steps after Termination

Upon termination of this Agreement by the City, the City shall pay the Consultant for the Services rendered and disbursements incurred by the Consultant to the date of termination pursuant to this Agreement, less any amounts necessary to compensate the City for damages or costs incurred by the City arising from the Consultant's default. Termination will be without prejudice to any other rights or remedies the City may have.

13.4 Force Majeure

Either party shall be absolved from its obligation under this Agreement when and to the extent that performance is delayed, prevented, and in the City's case, when and to the extent that its need for vehicles, materials, or Services to be supplied hereunder is reduced or eliminated by any course, except financial, for reasons beyond its control, including but not limited to: fire, explosion, war, riots, strikes, labour disputes, and governmental laws, orders, or regulations.

14.0 APPLICABLE LAWS AND BYLAWS

14.1 Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia. The City and the Consultant accept the jurisdiction of the Courts of Nanaimo, British Columbia and agree that any action under this Agreement be brought in such courts.

14.2 Codes and Bylaws

The Consultant shall provide the Services in compliance with all applicable federal, provincial, regional, and municipal codes, bylaws, and regulations.

14.3 Interpretation of Codes

The Consultant shall, as a qualified and experienced professional, interpret codes, bylaws, and regulations applicable to the performance of the Services.

14.4 Licenses and Registrations

During the term of this Agreement, the Consultant and all Subconsultants shall possess and maintain licences, registrations, and permits where required by legislation to perform the Services.

15.0 CONFLICT OF INTEREST

15.1 Conflict of Interest

The Consultant, the Consultant's employees, and Subconsultants:

- (a) Shall conduct their duties related to this Agreement with impartiality, and shall, if they exercise discretionary authority over others in the course of those duties, disqualify themselves from dealing within anyone with whom a relationship between them could bring the impartiality of the Consultant or its employees into question;
- (b) Shall not influence, seek to influence, or otherwise take part in a decision of the City knowing that the decision might further their private interests;
- (c) Shall not accept any commission, discount, allowance, payment, gift, or other benefit connected, directly or indirectly, with the performance of Services related to this Agreement, that causes, or would appear to cause, a conflict of interest;
- (d) Shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of the Services related to this Agreement, and if such financial interest is acquired during the term of this Agreement, the Consultant shall promptly declare it to the City, and;
- (e) Shall not, during the term of this Agreement, perform a service for, or provide advice to, any person, firm, or corporation, which gives rise to a conflict of interest between the obligations

of the Consultant under this Agreement and the obligations of the Consultant to such other person, firm, or corporation.

15.2 Breach of Conflict of Interest

A breach of the conflict of interest clauses of this Agreement constitutes grounds for termination of the Agreement, should the City deem such action appropriate.

16.0 DISPUTE RESOLUTION

16.1 Dispute Resolution Procedures

The parties shall make reasonable efforts to promptly resolve any dispute, claim, or controversy arising out of or related to this Agreement ("Dispute") using the Dispute Resolution Procedures set out in this Section.

16.2 Negotiations

First, the City's Project Representative and the Consultant's Project Manager shall make reasonable efforts to resolve any Dispute by amicable negotiations and shall provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate negotiations. Should these negotiations be unsuccessful in resolving the Dispute, the matter shall be promptly referred to the City's Chief Administrative Officer, or designee, and the Consultant's Principal, who shall meet and confer, in good faith, to resolve the Dispute to mutual satisfaction of the parties.

16.3 Arbitration

If all or any portion of a Dispute cannot be resolved by good faith negotiations as set forth above within thirty (30) days of the first negotiation, either party may, by notice to the other party, submit the Dispute for resolution under the *Commercial Arbitration Act*. Within seven (7) days of delivery of such notice, the parties shall jointly appoint a single arbitrator. The cost of the arbitration (including fees of arbitrators) shall be borne equally by the parties, and each party shall bear its own costs of participating in arbitration. The arbitration shall take place in the Parksville, British Columbia area. The award of the arbitrator shall be final and binding upon the parties.

17.0 PROJECT REPRESENTATIVES AND NOTICES

17.1 City's Project Representative

The City appoints the person named below as the City's Project Representative for the purposes of this Agreement (the "City's Project Representative").

17.2 Consultant's Project Manager

The Consultant appoints the person named below as its Project Representative for the purposes of this Agreement (the "Consultant's Project Manager").

17.3 Communications and Notices

All communications between the City and the Consultant regarding this Agreement, including performance of the Services, shall be between the City's Project Representative and the Consultant's Project Manager. Any notice, report, or other document that either party may be required or may wish to give to the other must be in writing, unless otherwise provided for, and shall be deemed to be validly given to and received by the addressee, if delivered personally, on the date of such personal delivery, if delivered by email, or if by mail, five (5) calendar days after posting.

The addresses for delivery shall be as follows:

City of Parksville

Project Representative: Guy Martin

PO Box 1390

Parksville, BC V9P 2H3

Telephone No.: (250) 951-4122

Email Address: gmartin@parksville.ca

The Consultant

Project Manager: [REDACTED]

Mailing Address [REDACTED]

City, Province, Postal Code [REDACTED]

Telephone No.: [REDACTED]

Email Address: [REDACTED]

18.0 GENERAL

18.1 Headings

The heading or captions appearing in this Agreement are inserted for convenience.

18.2 Amendment

This Agreement may be amended only by written Amendment to this Agreement, signed by both parties.

18.3 Validity of Provisions

If any provision of this Agreement is invalid or unenforceable, it shall be severed from the Agreement and shall not affect the enforceability or validity of the remaining provisions of the Agreement.

18.4 Conflict between Agreement and Exhibits

In the event of a conflict between a provision in this Agreement and a provision in an Exhibit attached to this Agreement, the provisions in this Agreement shall prevail.

18.5 Legally Binding Agreement

This Agreement shall benefit and be legally binding on the parties and their successors and permitted assigns.

18.6 Waiver

No waiver by either party of any breach by the other party of any of its covenants, obligations, and agreements shall be a waiver of any subsequent breach or of any other covenant, obligation, or agreement, nor shall any forbearance to seek a remedy for any breach be a waiver of any rights and remedies with respect to such or any subsequent breach.

18.7 Entire Agreement

This Agreement, including the Exhibits attached hereto, constitutes the entire agreement between the parties with respect to the terms, conditions, and Services and supersedes all earlier proposals, understandings, communications, representations, and agreements, whether oral or in writing. Any Amendment to this Agreement shall prevail over any other provision of this Agreement, in the event of an inconsistency between them.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the day and year first above written.

EXECUTED THIS [redacted] day of [redacted], **2021**, at Parksville, in the Province of British Columbia.

CITY OF PARKSVILLE

CONSULTANT

Director

Name of Signing Officer

Corporate Officer

Legal Name of Consultant

Mayor

Address (City, Province, Postal Code)

Attachments:

- Exhibit "A"** **Terms of Reference (Project and Services)**
- Exhibit "B"** **Hourly Rates and Fees for Services**
- Exhibit "C"** **Delivery Schedule**